

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

GERARD REMILLARD, JR.,

Plaintiff,

vs.

CASE NO. 05-71413  
HON. LAWRENCE P. ZATKOFF

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**ORDER DENYING ATTORNEY FEES  
PURSUANT TO 42 U.S.C. § 406(b) & E.D. MICH. LR 54.2(a)**

This matter comes before the Court on the application of Plaintiff's attorney for authorization of attorney fees pursuant to 42 U.S.C. § 406(b). On January 25, 2006, the Court granted Plaintiff's Motion for Summary Judgment and remanded the case for an award of benefits. On or around January 23, 2007, Defendant authorized and tendered a fee payment in the amount of \$9,000.00. Plaintiff's attorney alleges that this amount did not include hours spent by the attorney on Federal Court Proceedings and requests approval from this Court for a fee in the amount of \$11,125.00.

Under 42 U.S.C. § 406(b)(1)(A), an attorney fee may be awarded up to "25% of the total past due benefits to which the Claimant is entitled ...." Further, Plaintiff's representation agreement with his attorney states that "I agree with the 25 % fee which my representative is asking to charge and collect." Pursuant to E.D. MICH. LR 54.2(a), however, a social security fee motion must be filed "no later than 14 days after entry of judgment or receipt of the social security certificate award (notice of award), whichever is later." This Court granted Summary Judgment on January 25, 2006. The Social Security Administration gave its Notice of Award on August 25, 2006, and authorized a fee payment of \$9,000.00 on January 23, 2007. Since the present petition did not come before the Court until August 10, 2007, this Court concludes that the petition is untimely.

The motion for attorney fees pursuant to 42 U.S.C. § 406(b) is hereby DENIED as untimely.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff  
LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE

Dated: October 1, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on October 1, 2007.

s/Marie E. Verlinde  
Case Manager  
(810) 984-3290